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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20544

In the Matter of

Amendment of the Commission's Rules to
Establish Part 27, the Wireless Communication
Service ("WCS")

GN Docket No. 96-228

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DEC 4 - 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters ("NAB")¹ hereby submits the following comments on the Commission's Notice of Proposed Rule Making ("Notice") in the above-captioned proceeding.

In the Omnibus Consolidated Appropriations Act of 1997,² Congress required the Commission to reallocate the frequencies at 2305-2320 and 2345-2360 MHz for wireless services that are consistent with international agreements concerning radio spectrum.³ In response to this legislative action, the Commission in turn has decided to create a new Wireless Communication Service ("WCS") that would permit spectrum obtained by a potential WCS licensee to be used flexibly, depending on the nature and business vision of the individual provider. The new WCS spectrum allocation will overlap with and be superimposed upon the Commission's previous allocation of the 2310-2360 MHz band to satellite-based digital audio radio service ("satellite DARS"), and in effect will expand that half of the DARS allocation for use by a potentially broad range of other fixed, mobile and radiolocation services in addition to satellite DARS.⁴

¹ The NAB is a nonprofit, incorporated association that represents and serves America's radio and television broadcast stations and networks.

² See Omnibus Consolidated Appropriations Act, 1997, P.L. 104-208, 110 Stat. 3009 (1996).

³ See Notice at ¶ 2.

⁴ See *id.* at ¶¶ 6, 9, 18.

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As the Commission is well aware, NAB has long questioned the need for and opposed in the first instance the allocation of spectrum for satellite DARS, particularly when any incremental public interest benefits of such a service are balanced against the public interest harms that the introduction of satellite DARS could wreak on the quality and quantity of local radio service in the United States.⁵ While NAB does not seek to re-litigate the wisdom of the Commission's satellite DARS spectrum allocation here, NAB believes that the Commission's "flexible" approach to opening WCS spectrum to other service uses may be a sensible compromise method of allowing market forces and consumer demand to determine the best and most efficient use of much of the spectrum at 2310-2360 Mhz.⁶

In any event, however, NAB urges the Commission to ensure that, to the extent that WCS spectrum ultimately is used by satellite DARS providers, such use is moderated by a service design that will minimize the potentially devastating impact that the introduction of satellite DARS could have on terrestrial broadcasters' ability to continue to provide locally produced, community-oriented programming. NAB has offered comprehensive comment on the Commission's proposed service, licensing and technical rules for satellite DARS in IB Docket No. 95-91,⁷ and here incorporates its filings in that docket by reference. The *Notice* has proposed that

⁵ See generally, e.g., Comments of the National Association of Broadcasters, IB Docket No. 95-91 (Sept. 15, 1995) & Attachments.

⁶ If nothing else, the Commission's WCS service proposal will expand the universe of potential users of 2 GHz spectrum beyond the proposals of the four pending satellite DARS applicants, who have shown no equitable or other reason why they should receive guaranteed allocations for their provision of satellite DARS. See Comments of the National Association of Broadcasters, IB Docket No. 95-91 (Sept. 15, 1995), at 54-59; see also Report of Satellite Digital Audio Radio Service Pioneer's Preference Review Panel, Report No. SPB-67 (unanimously concluding that three pending satellite DARS applicants that applied for a pioneer's preference had not demonstrated a "truly innovative service of guaranteed high quality coupled with a technical design to provide this service that clearly embodies original ideas").

⁷ See In the Matter of Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, IB Docket No. 95-91, *Notice of Proposed Rule Making*, 11 FCC Rcd 1 (1996); Comments of the National Association of Broadcasters & Attachments 1-14, IB Docket No. 95-91

the BSS service allocation that overlaps with WCS spectrum be governed by the satellite DARS service rules,⁸ and NAB agrees that those rules, once finalized, should govern any satellite DARS use of WCS spectrum.

One of the specific questions asked in the *Notice* pertains to the interference problems which will exist between a satellite DARS service in the United States and Canadian fixed service facilities in the 2310-2320 MHz band, and specifically whether or not potential DARS operation in this band should be either precluded altogether or limited to complementary terrestrial service so as to mitigate this interference.⁹ This question appears to presume that the satellite DARS rules, once adopted, would provide for a complementary terrestrial service, most likely in the form of “gap fillers” which would act as terrestrial repeaters allowing the satellite signal to be received in areas where it would otherwise be unavailable due to blockage.¹⁰

Since this question pertains to a potential satellite DARS service area which cannot receive the satellite signal due to interference considerations, and not due simply to signal blockage effects, NAB points out that the nature of the complementary terrestrial repeaters being suggested in the *Notice* is materially different from any terrestrial repeater service previously suggested for use with a satellite DARS system. By definition, repeaters here could not be fed by the satellite signal directly (as would the gap fillers proposed by the satellite DARS proponents) due to potential interference with the Canadian fixed service, so in effect what is being proposed

(Sept. 15, 1996); Reply Comments of the National Association of Broadcasters, IB Docket No. 95-91 (Oct. 13, 1995).

⁸ *Notice* at ¶ 32.

⁹ *See id.* at ¶ 7.

¹⁰ If the satellite DARS rules did not allow for complementary terrestrial repeaters, then the use of such repeaters in the WCS band for satellite DARS service provided therein would not be allowed either, based upon the Commission’s proposal (in ¶ 32 of the *Notice*) that the satellite DARS rules adopted in IB Docket No. 95-91 apply here as well.

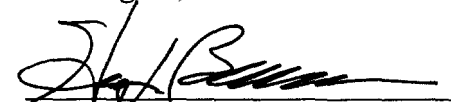
is a network of terrestrially-fed repeaters for those regions which would be susceptible to interference problems with Canada.


This would not be a broadcast *satellite* radio system, but rather a broadcast *terrestrial* radio service and as such would not fall under the allocations set forth for this band.

Consequently, for this reason, as well as for the concerns regarding the use of satellite DARS repeaters that NAB has previously expressed in its pleading hereby incorporated by reference, NAB asks the Commission to disallow the use of a terrestrial repeater network for the purposes of interference mitigation of any satellite DARS service provided in the 2310-2320 MHz band.

Respectfully submitted,

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